

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

ELITE PHYSICIAN SERVICES, LLC	)	
	)	
Plaintiff	)	
v.	)	
	)	No. 1:06-CV-86
CITICORP CREDIT SERVICES, INC. (USA)	)	
	)	
Defendant.	)	Chief Judge Curtis L. Collier

**ORDER**

On September 22, 2006, Defendant Citicorp Credit Services, Inc. (USA) (“Defendant”) filed a motion to dismiss or transfer, requesting this Court to either dismiss this action, or in the alternative, transfer it to the United States District Court for the Southern District of New York (Court File No. 5). In support of its motion, Defendant filed a memorandum arguing the first-to-file rule and the doctrine against claim-splitting prohibit such duplicative litigation since a similar case is currently pending in the United States District Court for the Southern District of New York (Court File No. 6).

Plaintiff Elite Physician Services, LLC (“Plaintiff”) filed a motion to stay determination of Defendant’s motion (Court File No. 9). In support of its motion, Plaintiff filed a memorandum arguing determination of Defendant’s motion should be stayed because Plaintiff has moved to voluntarily dismiss the action pending in the United States District Court for the Southern District of New York, which would render Defendant’s motion moot (Court File No. 10). In the alternative, Plaintiff argues the Court should deny Defendant’s motion to dismiss or transfer and questions whether the first-to-file rule even applies to the current situation. Plaintiff has requested oral

argument on the issues before the Court.

Considering the questions presented in both motions and the fact-sensitive nature of the arguments made, the Court hereby **GRANTS** Plaintiff's request for oral argument. Oral argument on the merits will be held **Wednesday, February 14, 2007 at 10:30 a.m.**

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**